

HOUSE BILL No. 1860

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-2; IC 10-1-1-31; IC 16-39-2-6; IC 35-47-2-3.5.

Synopsis: Firearms. Establishes the firearms interdiction fund to provide grants to local law enforcement agencies to assist in enforcing laws concerning illegal possession, illegal use, and illegal distribution of firearms. Requires law enforcement agencies to forward certain information concerning firearms obtained by the agencies to the federal Bureau of Alcohol, Tobacco, and Firearms to assist the bureau in tracing or otherwise analyzing the firearm. Requires the superintendent of the state police department to establish a six member firearms trafficking interdiction task force. Requires the task force to study issues related to illegal firearms trafficking and to submit an annual report to the governor and the legislative council. Gives the superintendent of the state police department access to a person's mental health record to determine whether a handgun license or a retail handgun dealer's license should be issued to the person or whether the person's license should be suspended or revoked.

Effective: July 1, 2003.

Porter

January 23, 2003, read first time and referred to Committee on Public Policy, Ethics and Veterans Affairs.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1860

A BILL FOR AN ACT to amend the Indiana Code concerning firearms.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-2-14 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2003]:

4 **Chapter 14. Firearms Interdiction Fund**

5 **Sec. 1. As used in this chapter, "firearm" has the meaning set**
6 **forth in IC 35-47-1-5.**

7 **Sec. 2. As used in this chapter, "fund" refers to the firearms**
8 **interdiction fund established by section 4 of this chapter.**

9 **Sec. 3. As used in this chapter, "institute" refers to the Indiana**
10 **criminal justice institute established by IC 5-2-6-3.**

11 **Sec. 4. (a) The firearms interdiction fund is established to**
12 **provide grants to local law enforcement agencies to assist in**
13 **enforcing laws concerning illegal possession, illegal use, and illegal**
14 **distribution of firearms. The fund shall be administered by the**
15 **institute.**

16 **(b) The fund consists of the following:**

17 **(1) Appropriations to the fund from the general assembly.**



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(2) Grants, gifts, and donations from public and private entities intended for deposit in the fund.

(3) Interest that accrues from money in the fund.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 5. (a) To apply for a grant from the fund, a county executive must submit a grant application to the institute for approval.

(b) A grant application submitted under subsection (a) must show how money in the fund would be used by local law enforcement agencies in the county executive's county to enforce laws concerning illegal possession, illegal use, and illegal distribution of firearms, including the following:

(1) Identifying, investigating, and arresting firearms traffickers and suppliers who violate federal or state laws.

(2) Assisting federal, state, and other local law enforcement agencies in investigating crimes involving firearms and firearms trafficking.

(3) Analyzing information received from federal, state, and other local law enforcement agencies concerning crimes involving firearms and firearms trafficking.

(4) Developing a firearms violence reduction strategy.

Sec. 6. (a) The institute shall approve or deny a grant application submitted under section 5 of this chapter.

(b) The institute shall give priority to grant applications submitted by executives of counties that have, among all Indiana counties, the highest rate of crimes involving illegal possession, illegal use, and illegal distribution of firearms.

(c) The institute shall determine the amount of each grant awarded under this chapter.

Sec. 7. If:

(1) the institute approves a grant application submitted under section 5 of this chapter; and

(2) a sufficient amount of money is available in the fund to award the grant;

the treasurer of state shall disburse from the fund to the applicant

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the amount of the grant specified by the institute and certified to the treasurer of state by the institute.

Sec. 8. The board of trustees of the institute shall adopt rules under IC 4-22-2 to implement this chapter.

SECTION 2. IC 5-2-15 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 15. Firearms Information

Sec. 1. As used in this chapter, "firearm" has the meaning set forth in IC 35-47-1-5.

Sec. 2. As used in this chapter, "law enforcement agency" means an agency or a department of any level of government whose principal function is the apprehension of criminal offenders.

Sec. 3. If a law enforcement agency obtains possession of a firearm for any reason, the law enforcement agency shall forward information concerning the firearm, including:

- (1) the make, model, and serial number of the firearm; and
- (2) the location where the law enforcement agency obtained the firearm;

to the federal Bureau of Alcohol, Tobacco, and Firearms to assist the bureau in tracing or otherwise analyzing the firearm.

Sec. 4. (a) If a local law enforcement agency receives information from the federal Bureau of Alcohol, Tobacco, and Firearms that may be used to trace or otherwise analyze a firearm, the local law enforcement agency shall forward the information to the state police department.

(b) The state police department shall:

- (1) keep information received by the department under this section for at least ten (10) years; and
- (2) make the information available to other persons for law enforcement and research purposes.

(c) The superintendent of the state police department shall adopt rules under IC 4-22-2 to implement this chapter.

SECTION 3. IC 10-1-1-31 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 31. (a) As used in this section, "firearm" has the meaning set forth in IC 35-47-1-5.**

(b) The superintendent shall establish a firearms trafficking interdiction task force.

(c) The task force consists of the following members:

- (1) The superintendent or a designee of the superintendent.
- (2) The attorney general or a designee of the attorney general.

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(3) Four (4) members appointed by the superintendent for two

(2) year terms as follows:

(A) A county sheriff.

(B) A local chief of police.

(C) A prosecuting attorney.

(D) A person involved in a neighborhood crime watch association.

The superintendent may invite a United States attorney and an agent from the federal Bureau of Alcohol, Tobacco, and Firearms or their designees to participate in meetings and other activities of the task force.

(d) A member of the task force who is not a state employee is not entitled to:

(1) the minimum salary per diem provided by IC 4-10-11-2.1(b); or

(2) reimbursement for:

(A) traveling expenses as provided under IC 4-13-1-4; or

(B) other expenses incurred in connection with the member's duties;

as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(e) A member of the board who is a state employee is not entitled to reimbursement for:

(1) traveling expenses provided under IC 4-13-1-4; or

(2) other expenses actually incurred in connection with the member's duties;

as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(f) If an appointed member of the board is not able to serve the member's full term, the superintendent shall appoint an individual to serve for the remainder of the unexpired term.

(g) The task force shall do the following:

(1) Study issues related to illegal firearms trafficking in Indiana.

(2) Develop illegal firearms trafficking education programs that do the following for local law enforcement agencies:

(A) Provide an overview of firearms violence and illegal firearms trafficking problems in Indiana.

(B) Identify resources available to local law enforcement agencies to address firearms violence and illegal firearms

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1 trafficking problems, including the firearms interdiction
2 fund established by IC 5-2-14.

3 (C) Emphasize the importance of coordinating with
4 federal, state, and other local law enforcement agencies
5 during investigations concerning illegal firearms
6 trafficking.

7 (D) Provide instruction concerning investigative techniques
8 and investigative resources to address firearms violence
9 and illegal firearms trafficking problems.

10 (3) Submit an annual report to the governor and the
11 legislative council that includes the following:

12 (A) A description of the activities of the task force.

13 (B) An overview of firearms violence and illegal firearms
14 trafficking problems in Indiana.

15 (C) Recommendations concerning legislation the task force
16 determines to be necessary to address firearms violence
17 and illegal firearms trafficking problems in Indiana.

18 SECTION 4. IC 16-39-2-6, AS AMENDED BY P.L.215-2001,
19 SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2003]: Sec. 6. (a) Without the consent of the patient, the
21 patient's mental health record may only be disclosed as follows:

22 (1) To individuals who meet the following conditions:

23 (A) Are employed by:

24 (i) the provider at the same facility or agency;

25 (ii) a managed care provider (as defined in
26 IC 12-7-2-127(b)); or

27 (iii) a health care provider or mental health care provider, if
28 the mental health records are needed to provide health care
29 or mental health services to the patient.

30 (B) Are involved in the planning, provision, and monitoring of
31 services.

32 (2) To the extent necessary to obtain payment for services
33 rendered or other benefits to which the patient may be entitled, as
34 provided in IC 16-39-5-3.

35 (3) To the patient's court appointed counsel and to the Indiana
36 protection and advocacy services commission.

37 (4) For research conducted in accordance with IC 16-39-5-3 and
38 the rules of the division of mental health and addiction, the rules
39 of the division of disability, aging, and rehabilitative services, or
40 the rules of the provider.

41 (5) To the division of mental health and addiction for the purpose
42 of data collection, research, and monitoring managed care

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providers (as defined in IC 12-7-2-127(b)) who are operating under a contract with the division of mental health and addiction.

(6) To the extent necessary to make reports or give testimony required by the statutes pertaining to admissions, transfers, discharges, and guardianship proceedings.

(7) To a law enforcement agency if any of the following conditions are met:

(A) A patient escapes from a facility to which the patient is committed under IC 12-26.

(B) The superintendent of the facility determines that failure to provide the information may result in bodily harm to the patient or another individual.

(C) A patient commits or threatens to commit a crime on facility premises or against facility personnel.

(D) A patient is in the custody of a law enforcement officer or agency for any reason and:

(i) the information to be released is limited to medications currently prescribed for the patient or to the patient's history of adverse medication reactions; and

(ii) the provider determines that the release of the medication information will assist in protecting the health, safety, or welfare of the patient.

Mental health records released under this clause must be maintained in confidence by the law enforcement agency receiving them.

(8) To a coroner or medical examiner, in the performance of the individual's duties.

(9) To a school in which the patient is enrolled if the superintendent of the facility determines that the information will assist the school in meeting educational needs of a person with a disability under 20 U.S.C. 1400 et seq.

(10) To the extent necessary to satisfy reporting requirements under the following statutes:

(A) IC 12-10-3-10.

(B) IC 12-17-2-16.

(C) IC 12-24-17-5.

(D) IC 16-41-2-3.

(E) IC 31-33-5-4.

(F) IC 34-30-16-2.

(G) IC 35-46-1-13.

(11) To the extent necessary to satisfy release of information requirements under the following statutes:

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- 1 (A) IC 12-24-11-2.
 2 (B) IC 12-24-12-3, IC 12-24-12-4, and IC 12-24-12-6.
 3 (C) IC 12-26-11.
 4 (12) To another health care provider in a health care emergency.
 5 (13) For legitimate business purposes as described in
 6 IC 16-39-5-3.
 7 (14) Under a court order under IC 16-39-3.
 8 (15) With respect to records from a mental health or
 9 developmental disability facility, to the United States Secret
 10 Service if the following conditions are met:
 11 (A) The request does not apply to alcohol or drug abuse
 12 records described in 42 U.S.C. 290dd-2 unless authorized by
 13 a court order under 42 U.S.C. 290dd-2(b)(2)(c).
 14 (B) The request relates to the United States Secret Service's
 15 protective responsibility and investigative authority under 18
 16 U.S.C. 3056, 18 U.S.C. 871, or 18 U.S.C. 879.
 17 (C) The request specifies an individual patient.
 18 (D) The director or superintendent of the facility determines
 19 that disclosure of the mental health record may be necessary
 20 to protect a person under the protection of the United States
 21 Secret Service from serious bodily injury or death.
 22 (E) The United States Secret Service agrees to only use the
 23 mental health record information for investigative purposes
 24 and not disclose the information publicly.
 25 (F) The mental health record information disclosed to the
 26 United States Secret Service includes only:
 27 (i) the patient's name, age, and address;
 28 (ii) the date of the patient's admission to or discharge from
 29 the facility; and
 30 (iii) any information that indicates whether or not the patient
 31 has a history of violence or presents a danger to the person
 32 under protection.
 33 (16) To the statewide waiver ombudsman established under
 34 IC 12-11-13, in the performance of the ombudsman's duties.
 35 **(17) To the superintendent of the state police department to**
 36 **determine if a handgun license or retail handgun dealer's**
 37 **license should be issued, suspended, or revoked under**
 38 **IC 35-47-2.**
 39 (b) After information is disclosed under subsection (a)(15) and if the
 40 patient is evaluated to be dangerous, the records shall be interpreted in
 41 consultation with a licensed mental health professional on the staff of
 42 the United States Secret Service.

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1 (c) A person who discloses information under subsection (a)(7) or
2 (a)(15) in good faith is immune from civil and criminal liability.

3 SECTION 5. IC 35-47-2-3.5 IS ADDED TO THE INDIANA CODE
4 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
5 1, 2003]: **Sec. 3.5. (a) The superintendent shall have access to**
6 **mental health records:**

7 (1) that are necessary to determine if an applicant is a proper
8 person under section 3, 5, or 15 of this chapter; and

9 (2) as provided in IC 16-39-2-6(a)(17).

10 (b) If the superintendent accesses mental health records under
11 subsection (a), the superintendent:

12 (1) may use the mental health records only to determine
13 whether an applicant is a proper person (as defined in
14 IC 35-47-1-7); and

15 (2) shall maintain the mental health records in confidence.

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